

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. **ORIGINAL**

STATE OF MONTANA,

Plaintiff and Appellee,

v.

DAVID W. GUNDERSON,

Defendant and Appellant.

**FILED**

OCT 08 2008

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA**NOTICE OF APPEAL**

Notice is hereby given that David W. Gunderson, the Appellant above-named and who is the Defendant in the cause of action filed in the Thirteenth Judicial District, in and for the County of Yellowstone, as Cause No. DC 07-632, hereby appeals to the Supreme Court of the State of Montana from the final judgment or order entered in such action on the 22nd day of August, 2008.

**THE APPELLANT FURTHER CERTIFIES:**

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.
2. That this appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b). If this is such an appeal, a true copy of the District Court's certification order is attached hereto as Exhibit "A."

3. That the notice required by Mont. R. App. P. 27 will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature if applicable to this appeal.

4. That all relevant transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of Mont. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal.

Respectfully submitted this 8<sup>th</sup> day of October, 2008.

OFFICE OF THE STATE PUBLIC DEFENDER  
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P.O. Box 200145  
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By: Joelynn Hunt  
for JIM WHEELIS  
Chief Appellate Defender

## **CERTIFICATE OF SERVICE**

I hereby certify that I have filed a true and accurate copy of the foregoing Notice of Appeal with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing Notice of Appeal upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

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DATED: \_\_\_\_\_

10/8/08

Sarah J. Braden